

FEB 15 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ARMANDO GUZMAN-GONZALEZ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-73601

Agency No. A79-535-365

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 11, 2008^{**}

Before: WALLACE, LEAVY and RYMER, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
decision denying petitioner's second motion to reopen.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The motion to proceed in forma pauperis is granted. The Clerk shall amend the docket to reflect this status.

Respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). Specifically, the regulations provide that a party may only file one motion to reopen, and that motion must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened. *See* 8 C.F.R. § 1003.2(c)(2). In this case, petitioner's second motion to reopen was filed on April 9, 2007, more than seven months after the BIA's original decision dismissing petitioner's appeal.

To the extent petitioner seeks review of the BIA's decision not to toll the filing deadline, the petition is also denied. The BIA did not abuse its discretion in finding that the motion was time-barred where petitioner alleged ineffective assistance of counsel, because the record reflects that petitioner proceeded pro se before the BIA. *See, e.g., Iturribarria v. INS*, 321 F.3d 889, 897-98 (9th Cir. 2003). Petitioner additionally failed to offer any evidence that he had been represented by the allegedly ineffective attorney.

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All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.